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SCOTT C HARRIS			HALIM, SAHERA	
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1 RECORD OF ORAL HEARING  
2  
3 UNITED STATES PATENT AND TRADEMARK OFFICE  
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5  
6 BEFORE THE BOARD OF PATENT APPEALS  
7 AND INTERFERENCES  
8

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10 *Ex parte* SCOTT C. HARRIS  
11

12  
13 Appeal 2009-011363  
14 Application 09/683,599  
15 Technology Center 2400  
16

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18 Oral Hearing Held: April 20, 2010  
19

20  
21 Before ROBERT E. NAPPI, ELENI MANTIS-MERCADER, and  
22 BRADLEY W. BAUMEISTER, *Administrative Patent Judges*.  
23

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1       The above-entitled matter came on for hearing on Tuesday, April 20,  
2       2010, commencing at 8:53 a.m., at the U.S. Patent and Trademark Office,  
3       600 Dulany Street, Alexandria, Virginia, before Victoria L. Wilson, Notary  
4       Public.

5       JUDGE BAUMEISTER: I guess we are ready when you are.

6       JUDGE NAPPI: You have 20 minutes.

7       MR. HARRIS: Well, anyway, good morning. And let me just start out by  
8       thanking the Patent Office for not making me go through 26 hours of  
9       traveling to get there, especially in these days of volcanic ash. So I will be  
10      respectful of your time, also. There are only a couple points I want to make  
11      and I will try to make them quickly.

12     And, you know, one of the points here is that this case is from before KSR.  
13     That's when we went up to appeal, it was before KSR existed. But,  
14     interestingly enough, KSR had a line in there about how they really weren't  
15     changing the law of obviousness other than the cases that they talked about,  
16     and one of the things they said implicitly is they said that any obviousness  
17     case from the Supreme Court, which they called this Court, was especially  
18     left intact.

19     So that's my segue into the Eibel process case, which I refer to in the Brief.  
20     It is from 1923. And I could talk about the facts of that case but, basically,  
21     what that case is about is a situation where there were -- there was a problem  
22     in the art and once the problem was recognized, the solution to the problem  
23     was pretty apparent, and, so, what the case often stands for is that discovery  
24     of the source of a problem is itself patentable.

25     So with that, let me just get right to what I think is the story of the Invention  
26     here. And in order to do that, perhaps the best way is to look at figure 3 of

1 the specification, which I'll try and put up on the screen for a second but I  
2 imagine you guys have it in front of you.  
3 You know, what is this thing? Many of us have seen this thing before but  
4 very few of us know what this thing is. And I guess, more saliently, what if  
5 you wanted to buy this online? What if you wanted to buy it on e-Bay or  
6 Amazon? How would you do that? I mean I know what it looks like. I  
7 don't know the word for it. And this -- this led to the realization that there is  
8 a problem here -- that sometimes online, you might want to buy something,  
9 you know what it looks like but you don't know the name of it. So this is  
10 really the source of the problem here.

11 The source of the problem is how do you buy this thing, and in the example  
12 of figure 3, it is actually called a penny farthing, but if you don't know the  
13 name of it, how would you buy it?

14 JUDGE BAUMEISTER: It's a new word for me.

15 MR. HARRIS: You know, at least we learn something; right?

16 JUDGE BAUMEISTER: Right. I have never heard that word before.

17 MR. HARRIS: And, actually, I know this is completely an aside. The  
18 reason it is called a penny farthing is because the front wheel looks like a big  
19 penny from the U.K. and the back wheel looks like a little penny from the  
20 U.K. But that is totally an aside.

21 But, you know, so how do you buy this thing when you don't know the word  
22 for it? And so this led to the whole notion of using image searching to  
23 automatically search an image database. And, again, the source of the  
24 problem here is one of the things that I believe is extremely patentable,  
25 which, again, segues me into the scope and content of the prior art.

1 If you look at -- there are two pieces of prior art cited in this case -- the Crill  
2 prior art, which is a basic image searching prior art and, you know, image  
3 searching was well-known well before this patent specification that we are  
4 looking at right now, and the Crill patent was about using image searching to  
5 find copyrighted images on the web.

6 If you look at column 7, it talks about looking for copyrighted images of  
7 Mickey Mouse, so, you know, basically, Walt Disney could police their  
8 copyright. You can look for them on the web using robots, as described in  
9 figure 8. This was a specific application of image database searching and it  
10 shows that image data base searching is known but does not show this  
11 problem or does not even recognize a solution to this problem.

12 Now, the second piece of prior art, the Hess prior art, was, you know, prior  
13 art by e-Bay, where they used this machine to build a database. If you look  
14 at column 5, it talks about a thumbnail building machine. So what you have  
15 got here is you have got the two pieces of the puzzle but what puts those  
16 pieces together is the identification of the source of the problem, and there is  
17 nothing in the prior art that talks about combining these two pieces of prior  
18 art in this way in order to solve this specific problem.

19 In fact, if you look at the final rejection of November 2006, what it says is  
20 that the reason to combine Crill and Hess is in order to allow prospective  
21 purchaser to make a more informed decision by providing an improved user  
22 interface for online commerce sites.

23 Well, you know, again, that's something perhaps that could have been done  
24 in hindsight once you had the teaching of the present specification, but there  
25 is no teaching in either piece of prior art. And, you know, I'm not going to  
26 read to you from the Brief. If I was going to do that, I would have just

1 mailed you the Brief again.

2 But since this is pre-KSR, I do want to say one more thing about KSR and  
3 that is that in the Patent Office's own interpretation of the KSR case, they  
4 talk about how KSR requires predictability in the combination. The KSR  
5 requires that the results be predictable. So in the Federal Register  
6 interpreting KSR, which is 72 Fed. Reg. 57529, which I'm sure you have  
7 seen, you know, it talks about these six different -- six or seven different  
8 ways to -- in which combinations can be made, but all of them require  
9 predictability.

10 Combining prior art elements according to known methods to yield  
11 predictable results, this -- this requires that somebody of ordinary skill in the  
12 art would have recognized the predictability of the results. Sure, someone  
13 could have found these two pieces of prior art, Crill and Hess, and someone  
14 could have combined them but what would be the reason to combine them?  
15 Certainly not to solve the source of the problem that we have identified here  
16 and that we are talking about.

17 JUDGE NAPPI: Excuse me, counsel. Could you point us right to the claim  
18 limitation that you are zeroing in on? You were talking about the general  
19 problem and I recognize that as being the -- the disclosure. I just want to  
20 zero us into specific claim language and see what it is that -- the scope of  
21 what it is you are asking us to review.

22 MR. HARRIS: Okay. And I mean I could use any -- any claim but I do like  
23 claim 17 the best so maybe that's the one I will --

24 JUDGE NAPPI: Is that your narrowest claim or is that your broadest claim?

25 MR. HARRIS: I guess that's the narrowest claim so let me talk about claim  
26 1. Maybe that would be better for you.

1 JUDGE NAPPI: Yes.

2 MR. HARRIS: And I think that is the broadest claim. It talks about a client  
3 that allows entry of image information and a server to receive the image  
4 information, and then it says, "and using said image information to search  
5 said database for items to be purchased which meet criteria specified in said  
6 image information."

7 JUDGE NAPPI: Now, you talked about -- you talked about Crill being  
8 something that maybe Disney would be searching to look to see if anybody  
9 was infringing on their patents -- I mean trademarks.

10 MR. HARRIS: Yes, trademarks and copyright, that's correct.

11 JUDGE NAPPI: Their copyrights and trademarks. Okay. And what  
12 database is Crill searching for that?

13 MR. HARRIS: Crill could search either -- any kind of database but I think  
14 the intent of Crill --

15 JUDGE NAPPI: Does that mean it could be searching a database of objects  
16 that are for sale to see if somebody is selling something that infringes their  
17 trademark? And if that's the case --

18 MR. HARRIS: Well, it is possible.

19 JUDGE NAPPI: Well, then, how does that define -- how is your claim  
20 defining over that? Because my understanding -- I'm reading claim 1 as  
21 saying it is a database which has lists of items to be purchased. That doesn't  
22 necessarily mean the purchaser is the one doing the searching. As you had  
23 presented the problem, that's what -- what the problem that you are trying to  
24 solve is but I'm not necessarily seeing that in the claim or am I misreading  
25 something?

1 MR. HARRIS: No, I think, you know, you are hearing the problem right  
2 and, you know, you are -- you are right that Crill does not say he couldn't do  
3 that. Crill also doesn't say that he is doing that. He doesn't talk about the  
4 problem. He doesn't talk about what he is searching. He could be searching  
5 any database. I agree with that.

6 JUDGE NAPPI: Okay. But the claim -- the claim doesn't cover the  
7 problem. That's what I was getting at. The claim doesn't say that this is a  
8 database that the search is for the user to purchase, it just says it is a search  
9 of database of objects for purchase or items to be purchased. So if you are  
10 looking for infringers of your trade dress, why wouldn't you be looking at  
11 objects that are for sale?

12 MR. HARRIS: Well, you are looking at objects in general but I think to say  
13 you are looking at objects for sale would be to approach this whole thing  
14 with hindsight because it doesn't -- Crill never says he is looking at objects  
15 for sale. He says he is just looking at databases on the Internet to look for  
16 trademarked items.

17 And -- and claim 1 says, "searching for items to be purchased which meet  
18 criteria specified," and Crill is never looking for items to be purchased, he is  
19 only looking for items that meet the criteria that he specified that meets --  
20 that violates some copyright or trademark. He doesn't look for items to be  
21 purchased.

22 JUDGE NAPPI: So the difference between the two is what the intent of the  
23 posting on the database is?

24 MR. HARRIS: I think that's -- well, the intent of the -- the intent of the  
25 search of the database, you know, the -- why are you searching the database.  
26 Here in claim 1, you are searching the database for items to be purchased.



1 JUDGE NAPPI: So the difference is why you are doing the search, it is not  
2 what's in the database.

3 MR. HARRIS: That's correct.

4 JUDGE BAUMEISTER: I have a couple more questions. On claim 1, you  
5 talked about image information and at claim 17, it says at line 5, "said  
6 computer accepting searching image information." I was wondering, is that  
7 a typo in claim 17? Is that word "searching" unintended or do those two  
8 terms mean something different?

9 MR. HARRIS: Well, it is -- I think it is -- I don't know that it is a typo. I  
10 don't know that that word needs to be there but I think the intent of claim 17  
11 is that that image information is image information for searching, so it says,  
12 "accepting searching image information."

13 Maybe that is a typo. I haven't noticed that before. It -- I can see how that  
14 word does not need to be there.

15 JUDGE BAUMEISTER: Okay. But it is not intended to mean something  
16 narrower or different than the image information of claim 1?

17 MR. HARRIS: No, I don't think so.

18 JUDGE BAUMEISTER: Okay. So, as I understand the argument, we are  
19 basically at the position now that we acknowledge that Crill teaches an  
20 image database and Hess teaches the conventional searching with text and  
21 the only issue is whether there is motivation to use the image database of  
22 Crill for searching in commerce or searching for things to be purchased. Is  
23 that a fair assessment?

24 MR. HARRIS: I think that's a fair assessment, yes.

25 JUDGE BAUMEISTER: Okay. And I guess before we get into the art, I'm  
26 also trying to figure out, like, what's the definition of "image information." I

1 understand in your spec that you acknowledge that searching for images was  
2 conventional but are we covering every conventional method of doing an  
3 image search or what protocols are included and what are excluded?

4 MR. HARRIS: Well, I think this is one of those things where image  
5 information evolves over time. You know, what is an image in 1999 is  
6 different than what's an image in 2010. So I think that image information  
7 would be any kind of data that represents an image.

8 JUDGE BAUMEISTER: Okay. I guess my concern is if I read Crill, if you  
9 can turn to column 5, and down in the middle of the page, they start talking  
10 about different types of image searching, and at line 37, "the comparison of  
11 reference images and candidate images during the step 106 are preferably  
12 performed using optical processing techniques." It goes on to talk about  
13 optical correlation and spacial light modulators.

14 But then jumping down to the next paragraph, at line 53, "another significant  
15 advantage of the method is that the term 'image' is construed very broadly  
16 and includes not only such content as graphics, pictures and other typical  
17 pictorial files but also content of software files, text files, music and sound  
18 files."

19 And then going down to the next -- line 60, "regardless of whether the  
20 digital file represents a graphics image, a text file, a music or a sound file, a  
21 software program, et cetera."

22 I guess my question is is Crill using "image information" to cover both  
23 processes, such as optical correlation and spacial light modulators, but also  
24 text searches, such as the word "brown" or "shirt"? I can search for images  
25 by using the associated text. Is that a fair assessment of Crill?

1 MR. HARRIS: You know, I -- I don't know what that language in Crill  
2 means but what I can tell you I think it means, I think it -- I think what he is  
3 meaning -- well, I'm just speculating here. I don't think that that's a fair  
4 reading of what the word "image" means. I mean I don't think it is fair to  
5 say that an image is text or an image is a sound file.  
6 I could see how with text you might say, well, if you have -- if you have an  
7 image of the text, like if you have, you know, the words on a page, the font  
8 itself is actually an image file when you -- when you display that -- the text  
9 and you could do an image search on text, like if you had the word C-A-T,  
10 you could look for images that had the word -- that had images of the word  
11 C-A-T in it but then you would be looking at more than just text, you would  
12 be looking at font, you would be looking at color, you would be trying to  
13 take something like the least means squares difference between what you are  
14 looking for and the text that you have there and that's -- when he talks about  
15 image correlation, that makes sense to me.  
16 When he talks about things like sound files, that doesn't make sense, I  
17 mean -- and I don't think that's a fair reading of the word "image  
18 information."  
19 JUDGE BAUMEISTER: Okay. And let's see. You talk about things like  
20 the setting parameters, I believe. Is that the terminology you use, for talking  
21 like things like size and orientation and color? If I want to search for  
22 something that's red or brown or blue and I type in -- I mean is that a setting  
23 parameter or is that an image information or how would you characterize  
24 that?  
25 MR. HARRIS: I mean you can call it whatever you want but, basically, the  
26 notion is that you enter an image and you compare that to a database.

1 Now, how you enter that image, you could scan it, you could draw it on a  
2 tablet, you could color it. Whether you call it a setting or you call it  
3 whatever, if you are looking for something in red, you would somehow enter  
4 a red image, either you would scan it or you would put it on a tablet and  
5 color it red, and then when you are doing your correlation, the correlation  
6 would look for the difference between the colors, you know, is this red  
7 similar to that red, so it would be -- it would be looking for a difference  
8 between, you know, some kind of least means squares difference between  
9 the coloration, and so it --

10 JUDGE BAUMEISTER: Okay. I'm sorry. So the information about the  
11 hue or shade of red would have to be gathered only by optical scanning, it  
12 couldn't be -- I mean once all this stuff is scanned and processed and put into  
13 a computer, at some point it is translated into digital information; right?

14 MR. HARRIS: Correct.

15 JUDGE BAUMEISTER: So the question is does this information have to --  
16 why does it have to come from a scanning process as opposed to be digital  
17 information that was derived from typing in the word "light red"? At the  
18 end of the day, it is all image information, is it not?

19 MR. HARRIS: So I mean it does not have to be derived from a scanning  
20 process. I agree with that. But I -- I don't -- I suppose you could take your  
21 image and you could type into an area "light red." You could type in those  
22 words, I suppose. You know, I don't know of any software program that  
23 does that, because typically what you would do is you would take a digitizer  
24 and you would draw a picture and then you would use the digitizer to color  
25 in parts of the picture.

1 Now, I suppose instead of coloring in those parts, you could somehow  
2 change it so it used the words "light red" but the words "light red" would just  
3 be indicative of the color just the same way that coloring in the picture  
4 would be indicative of the color.

5 JUDGE BAUMEISTER: Okay. Setting aside for now, you know, what's  
6 the metes and bounds of the meaning of "image information," if we can go  
7 back to the art, so then the question then is whether there is motivation for  
8 using Crill's image searching in commerce; right?

9 I mean, basically, you know, we are at the point of Crill does conventional  
10 image searching and Hess does conventional text searching in commerce  
11 and the question is is there motivation to do the optical or image search --  
12 based searching of Crill for commercial purposes is my understanding. Is  
13 that fair?

14 MR. HARRIS: Well, I think it is more than commercial purposes but I'm  
15 not going to argue with the nits of what you are saying. I mean I think what  
16 Crill shows is using image searching for one specific purpose, which is  
17 defined copyrighted images. Crill doesn't use it to find items for sale and  
18 while the e-Bay reference --

19 JUDGE NAPPI: Let me just ask you a question about that and I think I  
20 was -- this was the point I was trying to get to before. Crill is searching for  
21 copyrighted images. If those copyrighted images are on a website that's  
22 offering things for sale, does that meet the claims?

23 MR. HARRIS: Well, it doesn't because it doesn't --

24 JUDGE NAPPI: Because if for -- I mean what the Examiner has done is he  
25 has found this e-Bay database, which is items that are for sale, right, I mean  
26 that's a database of items to be purchased. Crill may not be looking for

1   them -- looking in that database for the purpose of purchasing them but  
2   wouldn't Crill still be used to search into that database to find out if  
3   somebody is out there infringing it, infringing their trademark? And how  
4   does that define over the claim?

5   MR. HARRIS: Well, you know, I think what we are -- what we are doing is  
6   we are looking at a hypothetical that maybe Crill could be incidentally  
7   looking at a database that had items for sale but I don't think Crill said that  
8   and I don't think Crill ever said to search said database associated with the  
9   server for items to be purchased.

10   JUDGE BAUMEISTER: Can we turn to --

11   JUDGE NAPPI: Well, but is he searching for items to be purchased or is he  
12   searching a database which has items to be purchased? I'm sorry. Is your  
13   claim searching for items to be purchased or is it searching a database of  
14   items to be purchased?

15   MR. HARRIS: Well, I think claim 1 says, "search said database for items to  
16   be purchased," so I think claim 1 says that it is searching for items to be  
17   purchased.

18   JUDGE NAPPI: I thought it said, "to search said database associated with  
19   the server for items to be purchased," so isn't that saying the database has  
20   items to be purchased?

21   MR. HARRIS: I mean I -- you know, I left out those words "associated with  
22   the server," but I think there is -- when I read that, I think it says, "to search  
23   said database associated with the server for items to be purchased," and,  
24   again, that's my -- you know, that's my broadest claim here. You know, if  
25   you look at claim 10, it talks about other things, including price information  
26   associated with the items, and if you look at claim 17, it talks about, also,

1 price information, again trying to distinguish over this interpretation, I think,  
2 that -- that anything could be a database of items to be purchased.

3 JUDGE BAUMEISTER: Let's see if we can short circuit this question of  
4 whether that constitutes an intended use or what. Can you turn to column 1  
5 of Crill, please.

6 MR. HARRIS: Okay.

7 JUDGE BAUMEISTER: At line 25, they are talking about the background  
8 of the art. It says --

9 MR. HARRIS: Right.

10 JUDGE BAUMEISTER: Yeah. I can wait until you get there.

11 MR. HARRIS: All right. Just a second. I'm sorry.

12 JUDGE BAUMEISTER: No rush.

13 MR. HARRIS: All right.

14 JUDGE BAUMEISTER: Okay. Down at line 25, 26, "Many companies use  
15 or develop databases of images or graphic files. Such databases may be  
16 centrally or remotely located. For example, a company may keep or  
17 maintain a database of schematics or other information relating to the  
18 manufacture, assembly and maintenance of products the company plans to --  
19 company develops and sells. As another example, a company may store  
20 pictures or images of artwork, posters, paintings, antiques, real estate,  
21 et cetera, that the company has available for sale or rent."

22 I guess my question is why isn't Crill talking about information that is to be  
23 purchased or items or objects that are to be purchased, such as things that are  
24 for sale or rent?

25 MR. HARRIS: Well, I certainly see that point, that I guess he is saying that  
26 the databases can include items for sale, and I -- so, you know, again, I --

1 what Crill is talking about is looking through those databases for a totally  
2 different thing.

3 And I think, you know, part of -- part of the thing here is, you know, we  
4 have -- we have come up with a new use that, in hindsight, might seem to be  
5 obvious because there is these words here, things like databases of items for  
6 sale, but what really the invention is about is this notion that you don't know  
7 what something looks -- what something -- what the words for something  
8 are, you only know what it looks like and you want to buy it without  
9 knowing what the words for it are.

10 And I think when the claim says, "search said database associated with said  
11 server for items to be purchased," it is looking for items to be purchased and  
12 I don't think Crill says that. Now, I agree Hess says that but Hess doesn't  
13 search images --

14 JUDGE MANTIS-MERCADER: Counselor --

15 MR. HARRIS: -- and --

16 JUDGE MANTIS-MERCADER: I'm sorry. I didn't mean to interrupt you.  
17 If you look at column 2, lines 21 and onward, it talks about what the  
18 improvement is of Crill. So, basically, if we -- if Crill says that there is  
19 image comprising for sale purchase in lines 26 of column 1 and then says the  
20 improvement is to expand that by having comparison of images from  
21 different databases and so forth, which is what is disclosed in the paragraph I  
22 pointed you to, why wouldn't that be predictable result to expand, basically,  
23 the image search to compare images for purchase or sale?

24 MR. HARRIS: With respect, I don't believe that Crill talks about searching  
25 through databases of images for sale. I think Crill talks about how you have



1 databases of images that are for a lot of different purposes and one of those  
2 things is for sale.

3 You have databases of images that you can use -- that are used for selling  
4 things but I don't think Crill ever talks about searching through those to find  
5 one of those items that you might want to purchase.

6 JUDGE MANTIS-MERCADER: But Crill says in the prior art that you  
7 have this database that you can search images for sale or rent and so forth  
8 and then in column 2, it says, "Unfortunately, comparing two images or two  
9 digital files can be a very time- consuming process, therefore, despite the  
10 state of the art in image information, there remains a need for an efficient  
11 apparatus and method to search for one or more candidate images and to  
12 compare such candidate images to one or more reference images."

13 So the improvement of Crill is improving the prior art needed art, which is  
14 searching databases for sale or rent, and it expands it to have further  
15 comparison of candidate images.

16 MR. HARRIS: You know, I think when it talks about storing pictures of  
17 images or artwork that are available for sale or rent, and then it says such --  
18 if you look at line 34, it says, "Such databases of images are often searched  
19 periodically by people who are looking for a specific image or attempting to  
20 find matches between an image they may create and provide images in the  
21 database."

22 I think what they are talking about is someone manually browsing through  
23 those images. I don't see this as saying that image searching has been used  
24 to purchase items. And if Crill had said that, I would have -- you know, I  
25 would think that the Examiner would have just given a rejection under  
26 Section 102. I don't think Crill describes that.

1 JUDGE NAPPI: I have no further questions. Do you have any further  
2 questions?

3 JUDGE BAUMEISTER: I guess we are over time. Did you want to spend a  
4 quick minute on the dependent claims or --

5 MR. HARRIS: Sure. I mean the dependent claims, you know, talk about  
6 other things that relate to this whole searching idea. You know, for instance,  
7 claims 6 and 7 talk about entering the information using a tablet or a  
8 scanner. Claim 8 talks about color information.

9 JUDGE BAUMEISTER: I'm sorry. I think, in your Briefs, did you only  
10 argue claims 3 and 4? Is that separately?

11 MR. HARRIS: Oh, that's probably correct. I apologize.

12 JUDGE BAUMEISTER: Okay. If we can wrap up for time, I believe that  
13 the concern was about the exclusion information and how the Examiner used  
14 the cropping and you didn't believe that cropping constituted exclusion  
15 information.

16 I am sympathetic to that position but Crill does talk about using Boolean  
17 searches at column 7 and, to me, when I think of a Boolean search, I think of  
18 and, nand, or, exclusive or, nor and not, and that's pretty much about the list.  
19 So why isn't saying a Boolean search is synonymous with saying that you  
20 could use "not" or exclusion information?

21 MR. HARRIS: Well, I think the point would be that Crill didn't talk  
22 specifically about choosing something that you don't want to find.  
23 So in the example of a penny farthing, you could say I -- you know, I don't  
24 want a penny farthing that has a feathered seat and, so, in essence, you  
25 exclude a feathered seat from the image.

1 And, you know, I understand your point about Boolean searching, that you  
2 could say, "not," but I don't think there is any description given in Crill  
3 about that. All he says is, "Boolean searching." And while one kind of  
4 Boolean searching is "not," there is nothing in Crill about forming exclusion  
5 information from that.

6 JUDGE BAUMEISTER: Okay. And do you have any arguments for why  
7 cropping doesn't constitute prioritizing information? Because claim 3, I  
8 believe, is about -- or claim 4, I guess, is about prioritizing information -- or  
9 your search -- performing a search by prioritizing which images you want to  
10 search.

11 Why doesn't cropping read on that?

12 MR. HARRIS: Well, cropping is just taking a piece of the image. And  
13 claim 4 talks about weighting one -- one portion of the image more highly  
14 than another portion, so there is a more important image portion.  
15 And cropping is just excluding one portion of the image, just taking it out  
16 entirely, cutting it off. I don't think it is a fair reading to say that cutting  
17 something off means that one portion of the image becomes more important  
18 than the other portions.

19 JUDGE BAUMEISTER: But following up your arguments with respect to  
20 the Boolean, it is not excluding it, it is not taking only information that is not  
21 there, so it could find results that includes the cropped portion, it is just not  
22 particularly looking for it.

23 So why isn't that weighting that information which is within the crop more  
24 heavily than the information that's not in the crop as opposed to excluding  
25 it?

1 MR. HARRIS: Well, I think the cropping is actually cutting off a piece  
2 entirely, taking it out entirely, not weighting it more highly but simply  
3 removing it.

4 So I don't think there is any weighting at all. I think it is completely  
5 removing it.

6 JUDGE BAUMEISTER: Okay. That's all the questions I have.

7 JUDGE MANTIS-MERCADER: I'm good.

8 JUDGE NAPPI: Okay. Thank you very much for your time.

9 Whereupon, the proceedings at 9:26 a.m. were concluded.

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